

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 Sheila Roundtree; and Major Walters,) No. CV-09-269-PHX-DGC
10 Plaintiffs,) **ORDER**
11 vs.)
12 US Collections West, Inc.; Donald)
13 Darnell; and Alan H. Zimmerman Esq.,)
14 Defendants.)

15 Defendants US Collections West (“USCW”) and Donald Darnell have filed motions
16 to dismiss pursuant to Rule 12(b)(5) for insufficiency of service of process. Dkt. ##59, 60.
17 Defendants assert that Darnell is the statutory agent for USCW and Plaintiffs therefore failed
18 to properly serve process on Defendants by leaving the complaint and summonses with an
19 employee of USCW, Kay Kasey. *See* Dkt. ##8, 11. Defendants argue that dismissal is
20 appropriate because the 120-day limit set forth in Rule 4(m) has expired.

21 In an order issued on July 16, 2009, the Court granted Plaintiffs’ motion for an
22 extension of time to serve process on Darnell, finding that Plaintiffs had made a good faith
23 attempt to serve him. Dkt. #57 at 6. The Court granted Plaintiffs until August 21, 2009 to
24 serve Darnell. *Id.* Because it appears that Plaintiffs’ efforts to serve USCW also were
25 unsuccessful, the Court will grant the same extension of time with respect to USCW. The
26 Court will deny Defendants’ motions without prejudice.

27 **IT IS ORDERED:**

28 1. Plaintiffs have until **August 21, 2009** to complete service on both US

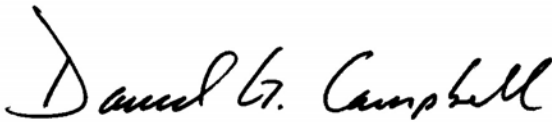
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Collections West and Donald Darnell.

2. Defendants' motions to dismiss (Dkt. ##59, 60) are **denied** without prejudice.

3. Defendants' request for oral argument is **denied**.

DATED this 22nd day of July, 2009.

A handwritten signature in black ink, reading "David G. Campbell". The signature is written in a cursive style with a large, stylized "D" at the beginning.

David G. Campbell
United States District Judge